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District of Hawaii

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Attorneys for Defendant  
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

|                                  |                            |
|----------------------------------|----------------------------|
| TARSHIA WILLIAMS, individually ) | CIVIL NO. 08-00437 ACK BMK |
| and as the Personal )            |                            |
| Representative of the Estate )   | DEFENDANT'S ANSWER TO      |
| of TALIA WILLIAMS, a Deceased )  | COMPLAINT; CERTIFICATE OF  |
| Minor, )                         | SERVICE                    |
| Plaintiff, )                     |                            |
| )                                |                            |
| vs. )                            |                            |
| )                                |                            |
| UNITED STATES OF AMERICA, )      |                            |
| )                                |                            |
| Defendant. )                     |                            |
| _____ )                          |                            |

DEFENDANT'S ANSWER TO COMPLAINT

Comes now, defendant United States of America, by and through its counsel, Edward H. Kubo, Jr., United States Attorney and Thomas A. Helper, Assistant U.S. Attorney for the District of Hawaii, and pursuant to Rule 8 of the Federal Rules of Civil Procedure, responds to plaintiff's complaint as follows:

FIRST DEFENSE

1. The allegations in paragraph 1 are of jurisdiction and a conclusion of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

2. Defendant admits the allegations in paragraph 2.

3. Defendant admits the allegations in paragraph 3.

4. Defendant is without sufficient knowledge and information to deny or admit the allegations in paragraph 4. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

5. Defendant denies the allegations in paragraph 5.

6. Defendant admits the allegations in paragraph 6.

7. Defendant denies the allegations in paragraph 7.

8. The allegations in paragraph 8 are of jurisdiction and a conclusion of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

9. The allegations in paragraph 9 are of jurisdiction and a conclusion of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

10. Defendant admits that acts causing the death of Talia Williams occurred in the City and County of Honolulu, State of Hawaii. The remaining allegations in paragraph 10 concern jurisdiction and conclusions of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

11. Defendant is without sufficient knowledge and information to deny or admit the allegations in paragraph 11 regarding the residence of Tarshia Williams and that she is the natural mother of Talia Williams. Defendant admits that Tarshia Williams is the personal representative of Talia Williams.

12. The allegations in paragraph 12 are of jurisdiction and a conclusion of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

13. Defendant admits that claims from Tarshia Williams, Individually for and Tarshia Williams, as Personal Representative of the Estate of Talia Williams were originally received at this Office on 25 May 2007, signed by Tarshia Williams' attorney Mark S. Davis without a power of attorney. Claims forms signed by Tarshia Williams were subsequently received at this Office on 27 June 2007.

14. Defendant admits that as of the time of the filing of this litigation, final action had not been taken on the

administrative claim of the Plaintiff by Department of the Army. The remainder of the allegations are of jurisdiction and a conclusion of law which require no response. To the extent a response is deemed necessary, defendant denies those allegations.

15. The allegations in paragraph 15 are of jurisdiction and a conclusion of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

16. Defendant reaffirms its answers to allegations in paragraphs 1-15.

17. Defendant denies the allegations in paragraph 17, except for the final sentence, which is a conclusion of law to which no response is required. To the extent a response is deemed necessary, defendant denies the allegations in this sentence.

18. Defendant denies the allegations in paragraph 18.

19. Defendant reaffirms its answers to allegations in paragraphs 1-18.

20. The allegations in paragraph 20 are of jurisdiction and a conclusion of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

21. The allegations in paragraph 21 are conclusions of law which require no response. To the extent a response is deemed necessary, defendant denies the allegations in this paragraph.

22. Defendant denies the allegations in paragraph 22.

23. Defendant denies the allegations in paragraph 23.

24. Defendant denies the allegations in paragraph 24.

25. Defendant reaffirms its answers to allegations in paragraphs 1-24.

26. Defendant denies the allegations in paragraph 26.

27. Defendant reaffirms its answers to allegations in paragraphs 1-26.

28. Defendant is without sufficient knowledge and information to deny or admit that Tarshia Williams is the natural mother of Talia Williams and denies that negligence of personnel of the United States caused the death of Talia Williams.

Defendant denies each and every allegation not expressly admitted herein.

#### SECOND DEFENSE

Plaintiff's injuries were the result, in whole or in part, of the negligence of third parties.

#### THIRD DEFENSE

Plaintiff's injuries were the result, in whole or in part, of plaintiff's own comparative or contributory negligence.

WHEREFORE, defendant respectfully requests that this action be dismissed with prejudice and that defendant be awarded its costs of this action and such further relief as may be appropriate.

DATED: January 26, 2009, at Honolulu, Hawaii.

EDWARD H. KUBO, JR.  
United States Attorney  
District of Hawaii

/s/ Thomas A. Helper  
By \_\_\_\_\_  
THOMAS A. HELPER  
Assistant U.S. Attorney

Attorneys for Defendant  
UNITED STATES OF AMERICA

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| Minor, )                         |                            |
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| UNITED STATES OF AMERICA, )      |                            |
| Defendant. )                     |                            |
| _____ )                          |                            |

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that, on the date and by the method of service noted below, a true and correct copy of foregoing document was served on the following at their last known address:

Served electronically via CM/ECF on January 26, 2009:

MARK S. DAVIS, ESQ. [mdavis@davislevin.com](mailto:mdavis@davislevin.com)  
MICHAEL K. LIVINGSTON, ESQ. [mlivingston@davislevin.com](mailto:mlivingston@davislevin.com)  
400 Davis Levin Livingston Place  
851 Fort Street  
Honolulu, Hawaii 96813  
Attorneys for Plaintiff

DATED: January 26, 2009, at Honolulu, Hawaii.

/s/ Leilani Uganiza